GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:2090
ANSWERED ON:11.12.2015
Tax Exemption by Pharmaceutical Company
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Will the Minister of FINANCE be pleased to state:

a) whether certain cases of pharmaceutical companies claiming tax exemption for giving illegal freebies and gifts to doctors have been notice;
b) if so, the details thereof and the number of such cases noticed during the last three years;
c) the total loss of tax to exchequer on this account for the said period; and
d) the corrective steps taken by the Government to check further loss along with the action taken against the erring assessment officers?

Answer

(a) & (b): The practice of giving freebies and gifts prevalent in pharmaceutical companies has been subject matter of examination in Central Board of Direct Taxes (CBDT). Vide Circular No.5/2012 dated 01.08.2012, CBDT has clarified that in view of the provisions of sub-section (1) of section 37 of the Income Tax Act, 1961 ('Act') read with its Explanation, any expenditure incurred by a taxpayer which is not in accordance with the guidelines contained in Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation, 2002 (as amended on 10th December, 2009), shall be an inadmissible expenditure under the Act. Thus, any claim of expenditure made by the pharmaceutical company on giving freebies & gifts to doctors is not an allowable expenditure. Information about number of such cases where expenses on freebies and gifts were being claimed as business expenditure is not centrally maintained.

(c): After the issue of aforesaid circular, the claim of expenditure incurred on distribution of freebies & gifts to doctors is not admissible and any likely loss of revenue on this count has been plugged.

(d): After the issue of aforesaid circular, the possibility of granting any illegal claim of such expenditure no longer exists. However, if any specific aberration comes to the notice, necessary remedial measures are taken as per the provisions of the Act and in suitable cases, action against the Assessing Officer may be taken as per the administrative mechanism.